

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN STEVE VICK**, on March 20, 2001 at 8:00 A.M., in Room 102 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Steve Vick, Chairman (R)  
Rep. Dave Lewis, Vice Chairman (R)  
Rep. Matt McCann, Vice Chairman (D)  
Rep. John Brueggeman (R)  
Rep. Rosalie (Rosie) Buzzas (D)  
Rep. Tim Callahan (D)  
Rep. Edith Clark (R)  
Rep. Bob Davies (R)  
Rep. Stanley Fisher (R)  
Rep. Dick Haines (R)  
Rep. Joey Jayne (D)  
Rep. Dave Kasten (R)  
Rep. Christine Kaufmann (D)  
Rep. Monica Lindeen (D)  
Rep. Jeff Pattison (R)  
Rep. Joe Tropila (D)  
Rep. John Witt (R)

**Members Excused:** None.

**Members Absent:** Rep. Art Peterson (R)

**Staff Present:** Paula Broadhurst, Committee Secretary  
Taryn Purdy, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 640, 3/16/01, HB 638,  
3/16/01, HB 121, 3/16/01  
HB 31, 3/16/01, HB 641 3/16/01  
Executive Action: None

**HEARING ON HB 640**

**Sponsor:** REP. DAN MCGEE, HD 21, LAUREL

**Proponents:** Brad Molnar, former Representative, Laurel

**Opponents:** None

**Informational Witnesses:** Pat Corcoran, Montana Power Company

**Opening Statement by Sponsor:**

REP. DAN MCGEE, HD 21, LAUREL said HB 640 could be called the Montana Energy Act because it addressed the potentials of situations in Montana. A market based solution is the way to go and it is achievable. If it is not achieved, this bill would be a useful tool. New Section 1 provides that a long term contract would include an allowance of 15% above the generation cost. The current contract is 9 1/2% over cost. New Section 2 pertains to conservation measures. If a consumer no longer requires the supply, that supply must be offered to other Montana large customers, aggregated customers, or small customers at the existing contract price, before it is offered to out of state. If a large customer institutes conservation measures that equal 200 kilowatts, they may sell the surplus energy to other large customers not served by the default supplier for 0.05 cent per kilowatt above the contract price. New Section 3 covers power plant purchases and bonds. This allows the board of examiners to issue obligation bonds up to \$400 million to be used by the state to purchase necessary power for large users or to invest in a power plant. New Section 4 creates an office of energy director. It was felt necessary to have one person oversee everything, because of all the things that are going on. New Section 5 provides that the board of investments may make low interest loans to an electrical energy generator who is eligible under Section 1. The electrical energy generator will use the loan proceeds to construct electrical generation facilities, transmission facilities, railroad and pipeline, or whatever is necessary to get the electricity to Montana customers. Board of investments will make up to \$100 million per year available for ten years for the purposes of subsection 1. These are loans the state would back that would allow a generator facility to either build or buy generation facilities to specifically provide Montanans and Montana businesses with electrical energy. New Section 6 makes certain generation facilities and transmission or distribution facilities exempt from the current tax if they are selling to Montanans. This is an incentive to serve Montanans. If an owner fails to perform the contract, the property would be subject to a rollback tax. Page 4, lines 11-22 defines

electrical generation facilities, and the exception would be that the term does not apply to non commercial or agricultural purposes, or to qualifying small power production facilities. There is a definition of transmission on page 4, lines 34-25. New Section 7 is the computation of the rollback tax and the conditions under which an owner or operator would be subject to the tax. Section 8 defines class thirteen property. This is current law with a taxable rate of 6% of market value. The only addition is page 6, line 10: "for sale at the rates provided for in Section 1". If someone is producing and serving Montana customers it is class thirteen property. New Section 9 defines class fourteen property as generators who choose not to serve Montana customers. The language is identical to Section 8 except for line 3, page 7: "power for sale at the rates other than those provided for in section 1". Also, class fourteen property is taxed at 12%, rather than 6%. Section 10 is current law and covers corporate taxes. Sub three on page 7 brings into the definition of corporate taxes the items under 15-31-102, which is electrical generation. Section 11 is about organizations exempt from tax. The only amendment to current law is on line 25 of page 9 that was included in a listing of organizations exempt from those taxes and specifically naming an: "entity designated by the public service commission pursuant to sections 5 and 6". Section 12 is the rate of taxes for electrical energy producers. The current per kilowatt hour today is \$.0002 and that money goes to the general fund. Lines 19-24 of page 10 states that an exempt wholesale generator will pay a license tax in the amount of \$.06 per kilowatt hour on all electricity and electrical energy it generates, manufactures, or produces, measured at the place of production for each calendar quarter. Section 13 covers disposition of revenue. The \$.06 would generate \$600 million which would go to the state special revenue account, rather than the general fund. Section 14 is the wholesale energy transaction tax. The current tax is \$0.015, and this bill proposes \$0.0454 cent per kilowatt hour of electricity. If the idea is to try to encourage generators to work out a market solution, this is a tool which could be used to do that. Generators do not ever have to pay this tax if they are serving Montana customers. Section 15 covers collections of taxes and where they would go. Section 16 is a default provider section that tells about public utility-transition to customer choice-waiver. Page 14, lines 3-10 state that the commission shall designate the public utility or default suppliers to provide regulated default service for small customers and those customers who elect to receive service from the default supplier. Except as provided in section 2 (2), a customer who elects to do so may only use the electricity for consumptive purposes and will enter into a contract that prohibits re-marketing. Page 14, lines 22-23 provides a window: "A customer who chose an electricity supplier prior to July 1, 2001 may make an election prior to October 1, 2001 to receive

electricity from the default supplier". Section 17 covers PSC (public service commission) authority and rule making. The PSC has an argument that they have regulatory authority today. Page 15, lines 7-8 clarified that to a greater degree: "If an approved transition plan is not in effect on the effective date of this act, the commission shall regulate the cost of electrical energy generated for sales to the customers in the service area of the utility". Lines 13-18 state that if the commission determined workable competition does not exist, they will immediately repeal any contrary order and establish reasonable rates for large customers based on time of use. Peak, non peak time and shoulder use must be billed at rates that will total the wholesale price. The commission will adopt rules to implement rates and the default supplier will educate the public. The key word is the first word, "if". This would take us back "if" a market based solution is not brought forth, and is necessary to protect Montana customers. If there is a market solution, this bill is probably not necessary. New Section 20 on page 17 requires a two thirds vote because it authorizes state debt. Section 18 on page 16 rescinds an order put in place by the PSC which is contrary to SB 390, the deregulation bill of 1997. **REP. MCGEE** said this is a powerful bill that offers both incentives and hammers. Hopefully this bill is never necessary, but should we get to the end of this session and there not be a market based solution between the generators and the users, this bill is offered for consideration.

#### **Proponents' Testimony:**

**Brad Molnar, Laurel, former state representative** said that if any part of this complex bill is left out, there is no solution. PPL (Pennsylvania Power & Light) has not strayed from their position that we will pay market price. The bill says if they will provide a reasonably priced electrical product in an abundance great enough to maintain our economy and our people, we will give them tax breaks, we will loan them money to make them stronger, we will go into conservation measures that will lower the high parts of our use curve so they can export more to California, we will do everything we can to help them. But if they insist on telling us that \$.07 is the market, we have no choice but to defend the people of Montana. He said he had always been market based, conservative and pro business and that had not changed. What this bill says is that we have dozens of large employers, thousands of small employers, 25,000 farm families, 900,000 Montanans that need reasonably priced electricity. There is a mistake on page 1 of long term contracts; we are at 9.5% by current law, not 15%. If we change that, the people of Montana will have a 75% increase in their electricity rates when they should still be under the umbrella until July 2002. That must be amended back to 9.5%. Montana Power made billions at 9.5% and PPL would make billions at 9.5%. This is a market based

solution; we want them to supply us at a rate of return that is reasonable and we will give a long term contract. If we have two high hydro years where our generation for hydro capacity goes up, and we are not 17,500 megawatts short in our transmission area, then suddenly \$.02 electricity is possible again because there is competition. Between now and then there is no competition. What we have is an unregulated monopoly that is acting exactly like an unregulated monopoly. He referred to New Section 18. Nothing in SB 390 said they could not choose a default supplier any time. Montana Power came in 18 months after the bill was passed when electricity rates were going up. They were afraid that the large users would come back and want to use them, so they asked the PSC to say that they could not come back. The PSC agreed, and shortly thereafter the prices skyrocketed and we started to see the economy crumbling. The legislature did not do that, the PSC did it. If, however, we do not take this methodology and have them sue the PSC saying the rule is contrary to law and therefore illegal and the PSC pleads no contest, it will go back into court. If the PSC just repeals it you have a whole new game and they have contracts to supply electricity. This is how to do it and stay out of court. He said North Dakota had spent \$700,000 determining how to spend \$1 billion to attract more generation and more transmission so they could supply more people in their grid. If you were a supplier, you wanted to build a generating plant or transmission lines and they offered you \$1 billion to locate on their grid while Montana is offering you clean skies, where are you going to go. California, who is on our grid, said you can build the generating plant anywhere you want and they would help. There is no reason to locate here when those transmission lines are \$1 million a mile to get the electricity out. If we don't step up to the plate and help these people decide to locate here, we have a big problem. We have money from the coal trust to help people build schools. If small towns are going to be impacted and they need a new school, as happened when Stillwater Mining went into Absarokee, part of that \$100 million would be used in that area. The bill also targets old money. Our coal is the solution to the Montana problem and to our regional energy problem. If we don't step forward with our 3,000 years worth of coal, our neighboring states will offer their coal. This would be us helping them, it is market based. We ask them to not pay the WET tax, to not pay the generation tax, to be our partners in building a stronger and better Montana. We give them incentive and opportunity to sign the contracts voluntarily so they can't take us to court and the problem can be solved. One amendment we will offer is to give large industrial users the opportunity to, with 90 days notice, leave the default supplier or with 90 days notice, pull back. That gives the generator stability. Since 1984 through the third quarter of 1999, wholesale electricity rates dropped. Through the same time frame, our retail electricity rates went up. That

is why we deregulated. **{Tape : 1; Side : B}** This would give them incentive to be efficient and not go for the increases, because then they could lose users as customers. That would act as a check, and it would be market based.

**Opponents' Testimony:** None

**Informational Witnesses:**

**Pat Corcoran, Vice President for Regulatory Affairs for Montana Power Company** said he had planned on providing informational testimony regarding the numbers that would be generated by the tax provisions of this bill, but **REP. MCGEE** had provided that information. He said he is available for questions.

**Questions from Committee Members and Responses:**

**REP. KASTEN** asked about the cost. **Brad Molnar** said distribution had never been deregulated under the PSC. It is \$.095 under the current rate that is allowed. To achieve that, they currently go through accelerated depreciation and various other things. With the high cost of what they have to buy at their peaks, income tax breaks are allowed to accomplish the same thing. As you are aware, it is not how much you make, it is how much you can keep.

**REP. TROPILA** said he wondered why none of the power industry lobbyists spoke for or against the bill. Do you know why that is? **Brad Molnar** said he was not a sooth sayer, so he could not.

**REP. MCCANN** referred to page 4, line 3, which covers contracts to sell a portion of the generation capacity for use within Montana. Is that defined or do we want to specify how much needs to be sold in Montana in order to qualify for the tax breaks? **REP. MCGEE** said elsewhere in bill it says they will supply the needs of Montana. You have about ten large boosters and ten small ones. Those that would be interested in avoiding the taxes would supply on a pro rata basis as much as the state needs, which varies significantly from season to season. Each would provide 10% of their capacity, if their capacity is necessary to meet that. In August needs go up and capacity goes down when the hydro dries up. During that time coal would have to pick up a bit, and the hydro people could pay them back later on. It would require interested parties to go together and form their own supply co-op in this case, and supply the needs of Montana based on the percentage of how much they make compared to the fees.

**REP. MCCANN** said the language on page 4, line 6 says "for the specified period or may receive accelerated depreciation". That doesn't recognize that they are entitled to a property tax break

or energy transaction tax or corporate license or income tax for the specified period. Would that need to be defined a little further? In order to get that break, there should be limitations to it. **Brad Molnar** said that as you go through the bill, it is not only defined, it is given to the PSC to oversee the contracts to determine what breaks are necessary to maintain the profit margin. For example, it costs less to generate electricity through hydro than it does coal, and it costs less to generate it through coal than it does natural gas. That would have to be looked at on an almost individual basis. **REP. MCCANN** said they could discuss where else it was located in the bill after the hearing. He said New Sections 2 and 3 recognize that we need to take care of our industry to some degree. Is language on page 2, lines 5-6 prioritized? **Brad Molnar** said there is nothing in particular about the rankings. It is just that Montana comes first. This deals with the people that take 1,000 kilowatts or greater, which is currently the ones that are in a bind. Residential and small business do not have such a consideration until after 2002, at which point the whole concept kicks in that electricity must be provided for Montana before it gets exported.

**REP. MCCANN** asked when the decision will be made, when will the industry come to you and say what their deal is. **REP. MCGEE** said this thing could be solved today if the generators and the users got together. He believed the market could solve this problem without any legislative influence, but if the market does not solve this by itself before the session ends, they will take measures to deal with the issue. He said that nothing we ever craft legislatively will be as effective as a true market based solution between the providers and the users. The answer to the question is it will be in place before the end of this session.

**REP. LEWIS** referred to low interest loans in section 5 and bonding in section 3. He suggested raising the authorization for the bonds dramatically as it isn't cost effective to make low interest loans out of our coal trust or our other accounts because we can invest those in bonds and make 7%. We can borrow money at 5%. Why not have the option available to borrow more if we can invest it cheaper. **Brad Molnar** said he is not an expert on bonding. This is a work in progress and he is looking at general obligation bonds where we generate the loans, they pay us back and we take first position on their ability to repay. When you get into the coal trust bond, you have constitutional problems, majority problems, minority problems, and if you tap into that too heavily you get into the \$20 million that goes to the schools. Going into the coal trust even as a collateral source is not logical at this point. He would look to others if necessary for the final wording on this. **REP. LEWIS** said that is what he was getting at in section 5. He suggested it might make

more sense to go with the bonding option rather than making the loans. When the board of investments makes the loans it comes from the coal trust or the retirement funds, etc. that might be earning a higher rate of interest. You might want to think about that. **Brad Molnar** said this is not really a plan, because a plan can be shot down. This is a program. It is short term, it gets the large industrials back on. It is mid term, it protects Montanans starting July 1, 2002. It is long term, it builds our infrastructure and allows the competition to grow in Montana. Currently because of the bottleneck, it is not economically feasible and is not probable. If any part of it gets struck down in court, we still have enough fine tuning to get us through.

**REP. DAVIES** asked about simply rolling back the deregulation. Would they be violating contracts they had entered into with various other users? **Brad Molnar** said not necessarily. Because they are deregulated, they have not had to file with the PSC. Particularly PPL has said they made 20% of their profit on 2% of their sales, which means they are playing the daily spot market. From here, it is extremely difficult to do that. If we get high hydro, the last leg of our transmission as it goes over to Idaho becomes a bottleneck that is owned by Bonneville Power and they have 1,000 megawatts in that corner of the state. If they flood that, they can't get it out and supply long term contracts. They have the capacity to handle our needs here, Montana Power is the default supplier. If that is not in their contract, that is their problem.

**REP. HAINES** asked about the choices. Do you have criteria in mind that would say the market had moved far enough along or in that direction to solve this problem, so that we don't walk out the door thinking we have a winner and find we don't have. **REP. MCGEE** said yes. If the producers and the users can get together and sign a contract, it is beneficial to them and keeps our businesses going. If the default provider comes forth with a plan for the 2002 Montana Power customers and offers that as a proposal to the PSC, we are there. That will effectively be a contract they have entered into. **REP. HAINES** said then you want signatures on the bottom line to say we are there, not just sitting down and negotiating. **REP. MCGEE** said that is correct.

**REP. FISHER** asked for clarification on how the PSC fits into this picture. He said he got the feeling the PSC does have the right to regulate these powers as stipulated in this bill. Is that right? **REP. MCGEE** said many people believe that whether this bill is there or not that under their rule making authority, under the definitions of workable competition and whether or not there has been an accepted transition plan, that they never left regulation until those things happened. Those things have not



happened. This is separate and simply draws time lines. It says define workable competition and see whether or not we have to step in. If they have not provided necessary paperwork with an improved transition plan, we must go on; we have an economy to be concerned about. That is basically current law, and we are just telling them to step up to the plate and do what the law has already told them to do. They have already said they want to do that. The balance of what they do is not market based. It is not re-regulation; it is simply contractual oversight. **REP.**

**FISHER** said basically the PSC would have the oversight between any contracts that were developed, and we would be protected by the PSC because of their ability to control the contracts. **REP.**

**MCGEE** said yes, the interests of the people of Montana would be protected if the contract was at \$.095 profit, the PSC would say what is allowed, and that is the basis of the contract. Last August, PPL had to buy electricity at \$.07 and sell it to us at \$.0225. They would be compensated for that. If there was a lot of electricity available at \$.06, but for some reason they decided not to buy that to get the extra 10% on the \$.07, the PSC would be there to protect us. **REP. FISHER** asked what that rate would be today based on the 15% guarantee in section 1. **REP.**

**MCGEE** said that is current law and the 15% is an error. It should read 9.5%, and would be 2.25 cents. We don't know the cost under PPL; they paid \$250,000 more for the plants than they thought they were worth. We don't know how efficient they are, etc. By using the old numbers and what we think to be the current numbers, it would probably come out about 2.8 cents because labor costs, benefits, the cost of mining, the cost of rebuilding, etc. go up and rates have been locked in for four years. We are not locking them in at 2.25 cents for life.

**REP. LINDEEN** asked if a fiscal note was being prepared and what the fiscal impact is. **REP. MCGEE** said it came to Appropriations because Federal Energy and Telecommunications could not hear it.

**Budget Director Chuck Swysgood** had looked at the bill, but the fiscal note was not ready. He said he would make sure there was a fiscal note before it went on the House floor. **REP. LINDEEN** said she was concerned about trying to do executive action in committee without the fiscal note. **CHAIRMAN VICK** said he needed to know if it was a revenue bill or an appropriations bill so he would know when to schedule it.

**REP. BUZZAS** asked if there were any estimates of what the fiscal impact might be. **REP. MCGEE** said the \$.06 on the energy tax could generate \$600 million per year. We need a fiscal note for any projection beyond that. **REP. BUZZAS** asked where co-ops fit into this bill. **REP. MCGEE** said they are not currently regulated and they would not fit under this bill.

**REP. BUZZAS** asked if coal will be the main focus of generation plants in Montana. **Brad Molnar** said that as costs move up, we will see more gas, but currently we are looking at coal. The states around us with non deregulation are paying a lot more for electricity. Idaho is at 25%, Colorado is at 140%. It could be that gas generated electricity would fit well into regional needs if we have the transmission capacity. He said that at Ashland the federal land will become state land with the coal that is there. The exception to the amount of tax flow in this is that the constitution says 95% of the income from state lands must go to schools. If we could get someone to put a mine mouth generation plant there, the majority of that money would go into schools. If that were anywhere near the size of Colstrip, around 2,000 megavolts, there would be no need for a second plant of that size in Montana. {Tape : 2; Side : A} **REP. BUZZAS** asked how anyone can sell electricity cheaper to Montana. **Brad Molnar** said they really can't because of the bottleneck. If Puget Light and Sound or British Columbia wanted to sell us our electricity significantly cheaper, and they could because it is hydro, they have to come back through the bottleneck. As soon as they took care of our needs, it would shut down Colstrip 1,2,3,4 and all the other generators because they couldn't get out to sell it. We would lose all of our coal revenues, our severance tax, etc. and a large part of our economic base. Because Bonneville Power controls that last bottleneck, if the federal government says to send all power to California as they did recently, that closes the bottleneck and we have nothing coming in. Even though we are in the same transmission grid, we really are not competing with them because of the bottleneck. When they talk about fair market price and they look to California, it is like wheat in the grain bin. It is not market price until you get it to the market. They can't get a lot of this electricity to California during a high hydro year. To get cheaper electricity in Montana, we must generate our own electricity or it must come in from outside, which means the jobs stay outside as well.

**REP. KAUFMANN** asked if the Governor will sign the bill since it contains tax increases. **REP. MCGEE** said if it is market based and people are working with the industries and the people of Montana, they will get tax incentives. If they choose not to work with Montana, they will be taxed accordingly. **REP. KAUFMANN** asked why we should subsidize the development of supply when we actually export a lot of electricity. Why not force the electrical supply that is generated in Montana to be sold to Montanans. **REP. MCGEE** said we have to deal with what is going on today, and that is not happening. He said he doesn't know how to rein it back in. It may be that the PSC has the power to do that, that needs to be played out. Not knowing what the answer is, this bill provides an alternative. **REP. KAUFMANN** asked if

the tax structure in this bill applied to new generation only, or would it apply to PPL. **REP. MCGEE** said it would apply to all generators. **REP. MCGEE** asked how the increased WET tax in section 14 relates to the property tax. Is the WET tax different for in state and out of state? **REP. MCGEE** deferred to **Brad Molnar** who said "WET" stands for Wholesale Energy Transaction. Those that opted to supply their pro rata share to Montana would pay the existing price which is .0165. If they opted to not supply their pro rata share to Montana, hopefully you will amend it to pay 5.0165, which is how it was intended to be in the beginning. That is everything generated in the state. It does not include that which passes through the state.

**REP. JAYNE** referred to page 15, line 14 where it says the commission shall immediately repeal any contrary order. Where would those contrary orders be coming from? **REP. MCGEE** said that an example of that issue is addressed in legislative findings in section 18 on page 16, line 21. The order there was not in statute and was not provided for in SB 390 which is now chapter 505. What is being said is that if in fact there is an order that is contrary to what the law provided for, it should be repealed. **REP. JAYNE** said it appeared section 18 was scolding the PSC. **REP. MCGEE** said it could be construed that way, but that was not the intent. We have 3/5 new members on the PSC. What we are saying is that actions taken in 1998 may be contrary to what the original SB 390 envisioned in 1997 and that needs to be revisited. It is important to have the statement that legislative findings indicate maybe the PSC rule doesn't conform with what our laws intended in 1997.

**Closing by Sponsor:**

**REP. MCGEE** said he will verify whether this is a revenue or an appropriations bill and he will check with **Chuck Swysgood** regarding the fiscal note and get that to the committee as soon as possible. **REP. MCGEE** said we did not do this to ourselves. Few of us stop to think about what it takes to generate the electricity we use every day until we get in a crisis like this. We are in a perfect storm. Supply has not kept up with demand. On December 27, 2000 AOL (America On Line) hooked up 760,000 new customers to the internet. Lights are everywhere and we use a lot of energy, but we have not kept our supply up. We generate a lot of energy in Montana but it doesn't stay here, and there are many reasons why. Some of the generators are not owned by Montanans so they ship their electricity, there are contractual arrangements, we have a lot less moisture than normal. We also have issues going on in other states and we get the fall out of that. He had no problem with amending the bill to meet **REP. LEWIS'** suggestion of increasing the bonding rate. This is an

important tool for the legislature to have at their command should there not be a satisfactory market based solution before the end of this session.

**HEARING ON HB 638**

**Sponsor:** REP. KIM GILLAN, HD 11, BILLINGS

**Proponents:** Debbie Smith, Natural Resources Defense Council  
Pat Corcoran, Montana Power Company  
Patti Keebler, Montana AFL-CIO

**Opponents:** None

**Opening Statement by Sponsor:**

REP. KIM GILLAN, HD 11, BILLINGS said HB 638 will direct the development of a state electrical energy policy and plan. The state has no umbrella energy policy and this is a much needed tool to deal with our energy future. HB 638 addresses the adequacy of electrical energy and natural gas transmission systems. This is part of the issue we are facing now, the problem of the bottleneck. This bill also addresses the reliability of Montana's electrical energy and natural gas energy generation, transmission and distribution systems. The bill stipulates analyzing and inventorying state energy resources, analyzing adequacy and diversity of electrical generation facilities including alternatives and renewable resources, recommending energy efficiency measures, analyzing the feasibility of recommending rates for customer classes, analyzing different types of metering and rate structures that will help us identify what Montana's options are, what the cost benefits are, and what areas we need to move forward on. Some of these functions were previously handled by the regulated entities. When the PSC had jurisdiction over MPC, they were responsible for looking at load forecasting, demand forecasting, and seeing if there was a balance between demand and supply. That is no longer a function or a responsibility under the deregulated scenario and it is important that the state collect that information. Information gathering is key for Montana in terms of its future energy policies. What this bill pulls together are resources we have in department of environmental quality and resources on the TAC (Transition Advisory Committee). There is no group doing this currently. The governor's energy council's focus is for six months to look at short term solutions. HB 638 will look at mid and long term solutions and bring together the information so that next session we can all make informed decisions. It will send a signal to businesses as well as consumers that we are trying to get our arms around Montana's energy future.

**Proponents' Testimony:**

**Debbie Smith, Natural Resources Defense Council (NRDC), Renewable Northwest Project and Northwest Energy Coalition** which consists of 90 publicly and privately owned utilities, consumer organizations and environmental organizations said these groups strongly support HB 638. Having this information available is crucial as we move forward and try to solve the problems that confront us in this energy dilemma. As the energy industry is now, there is no utility or private business that is looking at the kind of information that this bill is requesting. The Northwest Power Planning Council doesn't just focus on Montana, but when it does it only looks from the continental divide west. Information is not readily available on the adequacy of transmission, generation, diversity of supply, cost of building new resources, amount of cost effective energy efficiency improvements that are available, and different sorts of billing we could try that would reduce the load on the system and make our existing resources go farther. Market based solutions to energy problems are good under certain situations, but we need this information. The appropriation request for this bill is \$75,000 which would be made available to entities on the working group to compile their resources. There is a strong set of expert state employees in energy, the PSC, the consumer council, the department of environmental quality and on the EQC and TAC staffs. In the event they need to rely on outside consultants for some of the modeling that may be necessary, there is a small amount of money available to help them. She urged passage of the bill even if the appropriation request needed to be modified.

**Pat Corcoran, Montana Power Company and Northwestern Corporation,** the prospective buyer of their transmission distribution facilities said these issues are not easily described or understood and could produce a wide variety of approaches, recommendations and issues that could provoke a wide range of philosophical differences. An energy policy for the state would offer a number of advantages and if clearly articulated goals have been studied and accepted by policy makers in advance of the session, it would help to guide future deliberations.

**Patti Keebler, Montana AFL-CIO** said the gathering of vital information and the development of a state electrical energy policy is sound policy for the state. Clean, affordable, reliable and efficient power is vital to retaining and developing good jobs and to maintaining strong communities. She urged support of HB 638.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**CHAIRMAN VICK** asked if the existing transition advisory committee is now defunct. **REP. GILLAN** said it is not defunct, but it would not cover all the topics that are to be included in the energy policy. **CHAIRMAN VICK** asked if it was intended to have both of the committees. **REP. GILLAN** affirmed that it says there will be an electrical energy working group established pursuant to the existing statute that deals with the state energy policy. It is intended that representatives from the TAC would participate in this policy development. TAC had a much narrower focus, it dealt specifically with the transition post 1997 when we went to deregulation. {Tape : 2; Side : B} **CHAIRMAN VICK** asked how the makeup of the committee was determined. **REP. GILLAN** said she looked at several other states in the region that had developed energy policy: Oregon, Washington, and Minnesota. She said she wanted to make sure this group represented the diverse interests in Montana. She would like to amend in the phrase "to encourage public participation". **CHAIRMAN VICK** referred to page 3, line 1 and asked for a definition of public utilities and what process they would use to appoint one member. **REP. GILLAN** said public utilities are the regulated entities, i.e., the poles and wires. In the past for TAC or other committees, they just made a recommendation of someone. **CHAIRMAN VICK** asked if she was comfortable that they had a system to come up with that appointment. **REP. GILLAN** said yes. **CHAIRMAN VICK** asked if the commission is the PSC. **REP. GILLAN** said yes. **CHAIRMAN VICK** referred to page 1, line 13 and asked what the council is. **REP. GILLAN** said that refers to existing statute, section 90-4-1003 where the council was defined as the entity that would work on the state energy policy. **CHAIRMAN VICK** asked who the council is. **REP. GILLAN** said the council is people that are going to work on the committee, environmental quality council, representatives from TAC and various representatives listed on page 3 that would come together to develop electric energy policy.

**REP. KAUFMANN** asked for clarification. Section 2 appears to be current law and you did not set up that committee, but that is the current TAC. Are you turning TAC into the energy policy committee. **REP. GILLAN** asked to make a correction. "Council" is the environmental quality council (EQC). They would be the main group that would be responsible for coordinating the development of the state energy policy. TAC would have representation on the council, but the decision was made to put most of the responsibility on EQC and there would be representatives from TAC, PSC, and other groups outlined on pages 2-3. It was not so important who was on this, but that it included a broad representation of interests.

**REP. JAYNE** asked if the \$75,000 is a one time appropriation used for the committee members? **REP. GILLAN** said it is a one time appropriation. These funds might be necessary if outside data sources were needed for modeling. The EQC had a separate appropriation, but we knew it would take some additional resources to do this. The Oregon appropriation was \$500,000.

**REP. HAINES** referred to page 5, line 4 and asked if the word "commission" is the PSC. **REP. GILLAN** said yes. **REP. HAINES** said it seemed like this committee was being asked to duplicate some of the things that the PSC does, should do or could do. Why do we need two organizations to come together and do this when we have one that could be assigned to develop this policy now if that is what we need. He is concerned about what to do with the policy after they get it. **REP. GILLAN** said it is her understanding that the PSC currently does not develop state energy policy. The energy policy would be presented prior to the next legislative session and would help us determine a legislative agenda or specific legislative initiatives that needed to be pursued during the next session. As we started this session, there was a very steep learning curve in trying to determine what type of legislative initiatives were necessary if they were needed at all. Just in the last week the PSC has come out with a determination that because we have not made the transition to competition, they will be able to exercise some control. There are also some missing pieces of the puzzle and there may be some legislative initiatives necessary this session to further support what the PSC is doing. The purpose of this energy policy is to step back, look at the supply and demand, look at Montana's options, look for legislative gaps, see whether we need to do something, and come up with recommendations for the next session. This would be similar to what EQC did during the last interim on MEPA. We have done some things in the past with regard to residential energy conservation and the Governor is suggesting energy conservation too. **REP. HAINES** asked whether it wouldn't be cleaner to just direct the PSC to do this, even if they had to be given some additional resources and the authority to implement some of these things before we get to another session. Wouldn't it be cleaner to deal with one entity rather than create another one? **REP. GILLAN** said she did not believe that the PSC would not have the jurisdiction to do this. She asked to defer the question to the Montana Power representative. **REP. HAINES** said what he was driving at was that if the PSC did not have that authority, wouldn't it be easier to give them that authority rather than to create another commission with the authority for the two of them having to come together. **REP. GILLAN** said that in conferring with the MPC representative, this is envisioned to be a state wide energy policy. The PSC just has jurisdiction over regulated utilities in the state, which is

limited to poles and wires under deregulation. They have no jurisdiction over any type of generating facilities. In the past when the generation was regulated, they looked at load forecast, supply and demand balance. They no longer have specific involvement in that area. This policy development would have no intent to extend jurisdiction over unregulated entities.

**CHAIRMAN VICK** said this bill added energy policy development to TAC authority, because that was already in statute. Is that correct? **REP. GILLAN** said her intention is on page one, line 13. It is not to broaden or otherwise change the responsibilities of the TAC, with the exception of letting those people participate in the development of the state energy policy.

**REP. TROPILA** asked how members are on the EQC. **REP. GILLAN** said there are 12. **REP. TROPILA** asked how many members are on the TAC committee. **REP. GILLAN** said she did not know. **REP. TROPILA** said it is over 20. Consumer Council and PSC is at least five. How do you envision 40-50 people getting together to develop this policy, or are they going to develop one at a time and send it to each other? What is your plan, it is not spelled out. **REP. GILLAN** said it would be similar to the way EQC had worked in the past. There were quarterly meetings and the staff does most of the work. In this case we have staff from DEQ that would do the leg work, pull the information together and bring it to this group to make the recommendations. The most important thing is that the state needed to move forward with a state energy policy. We should look at that issue separate from the mechanics of how it is done. **REP. TROPILA** said he agreed, but how was it going to be coordinated among the various groups. We have to have direction. **REP. GILLAN** said it would be similar to the way the EQC works, but she would provide further clarification and work on the mechanics of this before executive action.

**REP. FISHER** referred to section 2. Is it the intent to restructure the existing TAC committee? **REP. GILLAN** said that because this statute was old, the amendment was put in just to update it. **REP. FISHER** said if you amend 69-8-501, he would interpret that bill to mean the new committee would be formed by the group that you have outlined in that area. **REP. GILLAN** said that was not her intention. It was just to update this section. She said she would check with the bill drafter.

**REP. FISHER** said you can't generate an electrical grid system like we have without already having a lot of data. But none of this information has been brought by these firms to the TAC committee for their consideration regarding the concerns this bill addresses. Do you have a comment on that? **Pat Corcoran, MPC** said it was important to point out that TAC was just to deal



with the transition to customer choice. What is important about this bill is the establishment of an overall statewide policy to deal with energy issues going forward. This committee would establish things from a policy perspective, but they will have to rely on people that operate in the industry. MPC has the wires and pipes going forward, power suppliers, existing state agencies, people that have the expertise to gather information necessary to help them craft and form statewide policy. This committee would not get into the technical things, the experts will have to deal with that. Some of that information would guide the committee in establishing a policy. **REP. FISHER** said he thought the idea of restructuring was to get the state out of the electrical business and put it back into private hands by selling the generating plants to private industry. We are now trying to sell the transition line to private industry, we are trying to get a default supplier to deal on a private basis. What kind of a policy does the state need to regulate all these private industries? **Pat Corcoran, MPC** said he agreed. The legislature has to look at things from an overall policy perspective depending on how things progress through time. This activity is not regulation, it is understanding the situation and the environment we all operate in. This information can be used as a backup to help guide future considerations. **REP. FISHER** asked how section 2 would be interpreted where it says section 69-8-501 is amended. Does that do away with the old TAC committee and put a new one in place? **Pat Corcoran** said this is existing statute in the law and a few things were cleaned up. The significant part of the amendment to this section is on page 4, line 25 where it says TAC will assign two legislative members to participate in the working group. This is just a necessary amendment to provide membership to the legislature.

**REP. KAUFMANN** said the "council" is clearly the EQC. We are giving this assignment to the EQC and asking them to talk to the other people in the state that know about energy. There is no new committee, no new council, we are working with existing structures. Do you read it that way? **Deb Smith, NRDC** said an important part of this bill is the codification instruction at the very end which indicated it is codified in 90-4-1001 and that bill had definitions for the term "council", as EQC, and for "department" as DEQ. Because this section 1 gets codified in this part of the law, there is only a reference to "council" and "department" and not full EQC. The bill directs the EQC to establish a process to come up with this statewide energy policy that no one is doing on a comprehensive basis. Each of the agencies being asked to participate deal with a separate part of energy and there is no mechanism in place for them to coordinate. The EQC will establish a process and contact each listed entity. The entities each have their own procedures. {**Tape : 3; Side : A** }

They each have their own area of expertise. TAC looks at transitioning into the future. The important thing is to have the state work on this because no one is doing it. If you want to charge the PSC, DEQ or TAC or just tell them to do it, that is okay, but the idea of the bill is to give it to EQC and tell them to get everyone together. There should be an amendment put in about providing adequate public participation by the EQC working group because that way you will get experts from MPC and other places to help out the state. You can change the mechanics or the appropriation, but it is crucial to get a plan. We don't have money to fund everything, that is why a plan is needed.

**Closing by Sponsor:**

**REP. GILLAN** said her intention in bringing this was not to create any more bureaucracy. When we developed this plan, we folded it into section 90-4-1003 which is an existing energy policy development process. That explains how the state in 1993-1995 developed a transportation energy policy which was one component of an overall state energy development process. When the original legislation was done in 1993 there was no TAC, but because we want those people to participate, that section of the law had to be brought back into this section. The EQC is there because they have the reputation for getting diverse groups together in a very efficient way to pull different ideas together. As we move to a competitive state, there are lots of policy options that we will be thinking about. Information in this electrical policy would help make future decisions.

**JOINT HEARING ON HB 121 and HB 31**

**CHAIRMAN VICK** said school funding differed from the last two bills and they would have a joint Hearing on HB 121 and HB 31.

**Sponsor:**           **REP. DOUG MOOD, HD 58, MISSOULA    (HB 121)**  
                         **REP. CAROL JUNEAU, HD 85, BROWNING   (HB 31)**

**Proponents:**       **Linda McCullough, Supt. of Public Instruction**  
                         **Eric Feaver, MEA-MFT**  
                         **Bob Vogel, Montana School Boards Association**  
                         **Loren Frazier, School Administrators**  
                         **REP. NORMA BIXBY, HD 5, LAME DEER**

**Opponents:**       **None**

**Opening Statement by Sponsor:**

**REP. DOUG MOOD, HD 58, MISSOULA** said HB 121 is brought on behalf of the Governor and it increased the ANB and basic entitlements

by 3% in the second year of the upcoming biennium. There was an amendment put on in the education committee which would raise the basic entitlement to 105%, which really helps many of the schools with declining enrollments as they are up against their 100% cap.

**REP. CAROL JUNEAU, HD 85, BROWNING** said HB 31 is brought on behalf of the office of public instruction and will provide a 4% increase to public schools in 2002 and a 7% increase in 2003. It is the vehicle we should look at for funding our public schools which are badly in need of adequate support to provide the instruction we all want for our children.

**Proponents' Testimony:**

**Linda McCullough, Superintendent of Public Instruction** said our education system in Montana is in a crisis and many people are concerned. Many communities, including Missoula, Livingston, Helena, and Glasgow are facing school closures. We are looking at the projected layoff of over 500 teachers, the loss of programs ranging from music to math, and combining grades into larger class sizes. HB 31 is the answer to this crisis. This is not a random number, it is the level of funding that local superintendents and school boards indicated was what they needed for basic educational needs in the next two years. It is within our power to create a well trained work force. Funding education is a challenge we must accept.

**Eric Feaver, MEA-MFT** said they support HB 31 and urge support. He said they also like the amendment that was placed on the bill in the full House.

**Bob Vogel, Montana School Boards Association** said they also support HB 31. They like the amendment that was placed on HB 121 as it would provide relief to school districts. The need for additional funding in HB 31 is critical.

**Loren Frazier, School Administrators** said they like the funding in HB 31 and he urged that education be given a priority in funding. HB 31 reflects what schools need. He said they support the amendment in HB 121.

**REP. NORMA BIXBY, HD 5, LAME DEER** said HB 31 is a priority and is desperately needed. When things are a priority we can find the money to make things work. The schools desperately need help now. She urged support of HB 31.

**REP. JOEY JAYNE, HD 73, ARLEE** said she supported HB 31 also.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. LEWIS** referred to the amendment on HB 121. The maximum general fund budget of a district will be calculated from 105% of the basic entitlement and 105% of the total ANB. Would that have to be approved by the voters in the district? **Madalyn Quinlan** answered that the definition of the maximum budget now includes 105% of those two entitlements. It would require voter approval to reach that level of budgeting for any increases in property taxes. **REP. LEWIS** said his concern was that we were endangering our equalization. Are we going to have wealthy districts where people are more likely to vote for the increase and districts that aren't as wealthy that don't vote for the increase. Will that affect the tenuous equalization formula that we have?

**Madalyn Quinlan, Office of Public Instruction** said because of that concern the bill had a sunset and this allowance of increasing the basic entitlement and total ANB to 105% terminated on June 30, 2003. This could create a problem for equalization in that the minimum budget is 80%, the maximum budget would now be 105%, and that is more than a 25% spending disparity. **REP. LEWIS** clarified that some districts who could pass the extra 5% would pass this, but no one could do it after 2003. Is that correct? **Madalyn Quinlan** said that is correct.

**Closing by Sponsor:**

**REP. MOOD** closed on HB 121 and said there is a crisis in public education funding. The crisis is that the formula is working, and it worked well as long as there were increasing enrollments. It does not work for those districts when they have declining enrollments. An example is Swamp Valley Elementary which will lose seven students, a loss of 11% of their funding which is currently at \$331,000. That funding will be reduced by \$37,000. In order to make that whole, **Jim Standaert, Legislative Fiscal Analyst**, put 15% in, which is \$66 million a year and they still were \$12,000 short. It is the formula. **REP. MOOD** calculated that if you take a teacher with a bachelor's degree and no experience and hire them based on the scales they have, if you had to hire 500 teachers and you wanted to give them each a \$5,000 raise in order to hire them, you would have to have \$350 million in the OPI budget in order to get to that point. The fact is that we are in a position now where we are funding infrastructure, we are no longer funding the kids. That is what keeps this propped up to where we can't get it into the classroom where it belongs. If we do have a major problem, the stock could be sold by putting either \$13.5 million or \$57 million into it. It will be solved by studying the funding formula and coming in with a different way of funding public education.

**REP. JUNEAU** closed on HB 31 and said funding our schools is one of the most important issues facing the legislature this session. She said she thought everyone would agree with **Linda McCullough** that education is in a crisis and we have to do something. We can't afford to lose 500 teachers in Montana. We need to send a strong message that we do support education by approving the funding that is requested in HB 31.

**CHAIRMAN VICK** said the short Hearing on two school funding issues was due to having been debated both on the floor and in this committee on HB 2 and everyone is very aware of the issues.

### HEARING ON HB 641

**Sponsor:** REP. MONICA LINDEEN, HD 7, HUNTLEY

**Proponents:** James Quillin, representing himself  
Jerry Driscoll, Montana Building Trades Council  
Sam Samson, Jefferson County Commissioner  
Georgette Quillin, representing herself  
Shelia Hogan, Career Training Institute  
Patti Keebler, MT AFL-CIO  
Jim Davison, Montana Economic Developers Assn.  
Arlene Parisot, Office of Higher Education  
Bob Francisco, SEP workforce  
Rick Gray, Helena College of Technology  
Sue Mohr, Montana Job Training Partnership  
Jane Jelinski, Montana Association of Counties  
Byron Roberts, Director of Workforce Investment  
Board Concentrated Employment Program  
Tom Lythgoe, Jefferson County Commission  
Jeff Cory, Gateway Economic Development Corp.

**Opponents:** Mike Foster, Dept of Labor and Industry  
Riley Johnson, National Federation of Independent  
Businesses  
Webb Brown, Montana Chamber of Commerce

### Opening Statement by Sponsor:

**REP. MONICA LINDEEN, HD 7, HUNTLEY** said HB 641, known as WINGS, addresses the dislocated and unemployed workers in Montana by providing a tax neutral vehicle to stimulate economic development in the hardest hit parts of Montana. HB 641 directly helps working families by providing financial support for education, training and other activities to help unemployed or underemployed workers find or keep good paying jobs. It helps existing businesses by providing funds for upgrading a current worker's

skill levels, it helps expand new businesses. It does not reduce the principal currently held in the unemployment insurance trust fund and would be funded through existing tax collections. It would reduce the employer's unemployment insurance tax rate by 0.1% and replace it with an assessment of equal value earmarked to a state special revenue account for training and economic development. Employers would continue to write one check for the same amount they would have paid before and the department of revenue would continue to collect unemployment insurance taxes. They would make a quarterly transfer of the assessment amount to the department of labor and industry. HB 641 reduces the flow of money into the funds by \$5 million per year, however without it, job training and business assistance activities, unemployed workers would likely be out of work for a longer period of time, increasing the amount of weekly benefits that are paid out, and having more impact on the overall trust fund balance than diverting the collection into the special revenue account. The assessment for the program only triggers on when the unemployment insurance trust fund is collecting at the lowest schedule one tax rate. The bill also included a trigger off to halt the assessment and replace it with a normal unemployment insurance tax if the ratio used by the department of revenue to calculate tax rates indicated that the trust fund was getting too close to requiring a tax increase in schedules one and two. She said **SEN. ELLINGSON** would talk about the actual program outline.

**SEN. JON ELLINGSON, SD 33, MISSOULA** said HB 641 will address a problem we are facing so that everyone wins. He handed out "WINGS Funding Process" **EXHIBIT(aph63a01)** and "LC567 Funding Process", **EXHIBIT(aph63a02)**. There are over 850 workers who could use this bill right now. WINGS provides benefits to all, not just to one industry or one employer. Six other states are using this funding mechanism to provide important benefits. It helps unemployed workers, workers who are in danger of being unemployed, employers whose workers need retraining. **{Tape : 3; Side : B}** The special revenue account for WINGS will collect approximately \$5 million per year to fund training and services for unemployed workers and communities that are impacted by significant layoffs and closures. Federal retraining funds are not sufficient to meet the needs of this situation. WINGS will be overseen by the department of labor and industry which will set performance standards and insure that the funds are spent in ways that would have the most long term benefit to the state's economy. **SEN. ELLINGSON** explained the handouts. The department will also coordinate funds with other training money and make WINGS funds available to an organization called the local workforce investment board. These boards are not a new bureaucracy, they are existing well functioning organizations that already address some of the purposes of the bill. The

boards are appointed by the local county commissioners and they consist of local organizations that can directly target local needs. He urged passage of the bill.

**Proponents' Testimony:**

**James Quillin, representing himself** said he will be a displaced worker at the ASARCO Smelter. He has been there 25 years and needs training to "learn to do something besides melting rocks". He said he needs a little help in order to continue to be a good citizen, homeowner, and taxpayer. This bill would do more toward getting people like him back into the mainstream of the work force and help the overall community and the economy than any other bill at this time.

**Jerry Driscoll, Montana Building Trades Council** said that page 4, section 4 of the bill puts together the board so that a majority of those must be business people and training is for jobs that are actually needed. He referred to sections 11 through the end of the bill. If the ratio of wages to the fund balance drops below a certain number, this bill will not cause the ratios to go up from schedule one and raise unemployment taxes.

**Sam Samson, Jefferson County Commissioner** explained that county level personnel are involved in appointing local workforce investment boards and are able to oversee and help with their endeavors. This bill is a local level attempt to alleviate a local problem and help those who are working to help themselves.

**Georgette Quillin, representing herself** said she is the wife of a soon to be laid off ASARCO employee. She asked for support of HB 641. She said the vast majority of ASARCO Smelter employees and many of their wives have never worked anywhere else and need retraining in order to get back into the work force. The employment office told her she was unemployable until she got computer training. Although there are programs like the Adult Learning Center and the Career Training Institute, there is not enough funding to cover everyone. This is a statewide problem, it isn't just ASARCO.

**Shelia Hogan, Career Training Institute** said they are receiving a lot of calls from distraught families that are concerned about their loss of employment. She asked consideration of HB 641. She said displaced homemakers who are underemployed or unemployed that are forced back into the labor market due to the dislocation of a spouse should be considered secondary layoffs. At some point, the spouse may have to go back to work so the family can make ends meet while the unemployed worker goes for retraining.

**Patti Keebler, MT AFL-CIO** said their organization runs the major employment and training program in Montana. They have assisted thousands of dislocated workers through their economic hardships for 20 years. They support HB 641. She handed out written testimony from Rebecca McLaughlin, **EXHIBIT(aph63a03)** and Debbie Roope, **EXHIBIT(aph63a04)**. She said that Pat Wise, a nationally recognized expert in employment training, who is the AFL-CIO research and economic development director would be available for technical questions about their program.

**Jim Davison, Montana Economic Developers Association and a board member of both the state and local work force investment board** said they support this bill. A well qualified work force is the number one issue in attracting businesses to the state and in retaining businesses. People want to know what kind of training and retraining assistance is available. Businesses who are suffering because of the energy crisis, etc. know they have to tool up and retrain their work force in order to keep them. One of the greatest fears of employers losing their people is they are getting trained elsewhere, leaving the state, and they will never recapture a qualified work force that knows how to work.

**Arlene Parisot, Office of Higher Education** said they support HB 641. Education works because knowledge is wealth. Education will move people from basic subsistence up to a quality of life position. This bill is important because it provides for inter agency coordination between educators, educational institutions and state agencies, educational providers, employers, businesses that can target specific skills that are needed, and the local boards. Montanans with poor labor preparation earn miserable hourly wages. Targeted education and training reflecting employer needs will help to move the individuals requiring skills into good paying jobs. Education works by putting Montanans to work. WINGS has sound ideas and needs to be supported.

**Bob Francisco, SEP workforce investment board member** said that as an employer he had seen a number of people affected by layoffs. They were all customers of local businesses who have had to cut employees because of lack of business. As a small businessman, he witnessed first hand how local economy suffered because of industry layoffs and shut downs. The only choices are low wages, relocating away from family and friends or leaving the state. We have programs in place to help people who have lost their jobs, but resources for dislocated workers are drying up. It is his job and that of the other board members to best represent their community, see that funds are spent appropriately, and get services to the people in need.



**Rick Gray, Helena College of Technology** said this bill is a win-win proposal because it gets financial support to workers and it had its own revenue stream. There are good paying jobs in Montana to train for in computer based technology, light manufacturing like machine tool and welding, technical services like mechanics and construction, and in health services. He said they have already had about 30 people from ASARCO asking about their training programs and financial services and what it takes to go to college. These people are taking the task at hand, getting right with it and setting up their programs. They have concerns about how they are going to pay their family's bills while they are taking 1-2 years off to go to college. A program like this has merit for them.

**Sue Mohr, Montana Job Training Partnership** handed out "Balance of State Workforce Investment Area", **EXHIBIT (aph63a05)** that shows workforce investment areas in Montana and contains names of individuals serving on the boards who have been appointed by county commissioners. They are subject to all the state monitoring, controls and conditions that any organization would be when they are dealing with federal dollars. Last year they served 1300 workers in the dislocated worker program. When they were laid off the average wage was \$11.50 and after training they began earning \$13.17. Typically the federal dollars are gone in the first six months of the program year, so this program is needed. It uses an existing administrative structure. With this program they can provide incumbent worker training, i.e. when employers need to upgrade the skills of their current workforce to make the employer more competitive, these programs can come in to avoid industry shutdown. The formation of Enterprise Centers is a new concept in this bill. These are centers that can come in when a shutdown occurs and help people who have been laid off start businesses and do entrepreneurial things. They can also provide services for the secondary layoffs that occur as a result of an industry shut down for spouses and displaced homemakers. Because these are state dollars, they can be used to leverage federal dollars which we have had to pass over because of the matching requirements. Some of these funds can be devoted to farmers. The number of layoffs are unprecedented in the history of their program. There are about 2,000 employees being laid off and 50-60 company shutdowns are occurring every week. The unemployment insurance trust fund is actuarially sound because of the taxable wage base that was established and because of the way the trust fund schedules worked. Employers take ownership in that system, and it is important to treat it so it is carefully protected. The bill contains good built in safe guards and there is some precedent for this program. There are dollars averted from the trust fund now to provide funding for rural job service offices and this is a similar proposal. **{Tape : 4; Side : A;}**

She said she had expected to have written testimony supporting the bill from **Wayne Stahl, board member** and **Bill Kennedy, Yellowstone County Commissioner** but it had not been received yet.

**Jane Jelinski, Montana Association of Counties** supports the bill.

**Byron Roberts, Director of the Workforce Investment Board Concentrated Employment Program** urged passage of HB 641.

**Tom Lythgoe, Jefferson County Commission** urged support of HB 641.

**Jeff Cory, Gateway Economic Development Corporation** urged support of HB 641 and presented written testimony for the record, **EXHIBIT (aph63a06)**.

**Opponents' Testimony:**

**Mike Foster, Dept of Labor and Industry (DOL)** said he is speaking as the Governor's legislative liaison. He said the fiscal note would be ready in a day or two and it will make more information available for executive action. This concept has merit and is worth exploring. It would be an excellent project for the state workforce investment board, and he said he plans to take these ideas to that board so they can put together some workable plans to address this. There is both a programmatic problem and a funding problem with this bill. This bill diverts \$5 million per year from the unemployment insurance fund, and even though it has been designed to avoid a rate increase, the DOL is not convinced. A key factor to look at in this case is the state unemployment level which changes from month to month. He handed out a chart "Montana Unemployment Data", **EXHIBIT (aph63a07)** and explained it. Current unemployment is 4.5%, which is considered low; it is the lowest it has been for many years. Currently we have a low unemployment insurance rate, and if that rate moves to a higher level there is a concern what the trigger will be. The need for this program and the funding ability move in opposite directions with this bill. As unemployment increases, flow into the trust fund (the tax) goes down. Flow out of the trust fund (the benefits) goes up. Probability of funds available decreases when the need is the greatest. 83% of Montana businesses have nine employees or less. The chart in exhibit 2 indicates that Montana Job Training Partnership, a private sector corporation will receive 4% in administrative fees. With this bill, it amounts to a statutory appropriation for a private sector corporation. That may not be a concern in this instance, but it is unusual. The amount of the administrative fee will be \$200,000 per year. The concerns on the programmatic side are of duplication, performance standards needing to be addressed, no placement rate being mentioned, no follow up employment retention standards, no

reporting requirements, no provisions for addressing issues of non performance, no sanctions. The bill states that DOL is unable to increase any FTE's. That creates problems if the workload increases substantially from this and dictates where training will occur because of current workloads in that area. On the funding side, the trust fund balance at the end of January was \$165 million. Rate schedule one, two, etc. relates to the tax rate that is paid. We are in rate schedule one, the lowest level. As set up in this bill, a rate increase would only be assessed against private experience rated employers. Governmental experience rated and reimbursable governmental and non profit employers would not be assessed the WINGS charge. Current Federal guidelines suggest that a state trust fund should have a balance large enough to pay benefits for 24 months. Our trust fund has a reserve that is good for 14.76 months. Based on the worst economic times we have experienced since 1958, Montana would have 8.28 months of benefits. The trust fund fluctuates month to month and with the time of year as to when benefits are paid out and revenues are received. Farmers and ranchers are not required to pay into the unemployment program unless they meet a payroll of \$20,000 or more in a calendar quarter, however agricultural employees are eligible for services under WINGS. That occurs with government and non profit employers as well. We could lose some interest off the trust fund and there are other legislative proposals that may affect the trust fund. He said there are people available to answer technical questions and that includes an economist.

**Riley Johnson, National Federation of Independent Business (NFIB)** said there are 7,000 members in Montana and they applaud the concept of this bill and in many cases NFIB members would be major recipients. The average member has 3-4 employees and gross sales of \$200,000 per year. They cannot support the bill for several reasons. From a programmatic situation, the legislature is being asked to give it to the private sector, but not to the public. They object to the philosophy of exempting non profits, public and agriculture but employees have the ability to take advantage of this program. He is concerned this will create an unfunded liability or unfunded entitlement program because the funding source is not stable. Page 8, section 11 is the crux of the funding program. If the trust fund to wage ratio is .0262 or greater, the \$5 million goes into this program. If the ratio is below .0261 or less, it does not. Page 11, section 15 contains schedules of contribution rates and he explained how it works. He stated that every time a rate is set, it is running 20-24 months behind. Several pieces of legislation will be tapping this fund, with a potential for \$5 million here. He is concerned that in 1-2 years we will no longer be in schedule one and pointed out the unemployment benefits increase and the premium reduction we have experienced now. He said we won't catch up to

that for 1-2 years the way the system works to implement it. This program has the potential of possibly being funded for one year and never again. He said this is a great idea, but the funding source is wrong and this will create an unfunded entitlement program.

**Webb Brown, Montana Chamber of Commerce** and a member of the state workforce investment board said he is opposed to HB 641.

**Questions from Committee Members and Responses:**

**REP. KASTEN** said he is one of the board members. His concern is the 17% administration cost. The people who would put this program in place are already doing other things. Do we warrant that much administration? **REP. LINDEEN** deferred to **Barbara Bonifest** to explain why those rates were set. **Barbara Bonifest** stated it is actually not administrative. 5% goes to Enterprise Centers which are business start up centers and 2% goes toward leveraging additional monies available from private foundations and federal funds that require matching dollars. Anything that is not a direct dollar to a worker was lumped into staffing costs under administrative. If we set up a needs based payment system under this program, there will be participant payments that have to be made on a weekly or a monthly basis. There is the tracking of the tuition cost for people attending the university, the fiscal reporting, the monitoring of program operators.

**REP. KASTEN** asked if they were aware there was a dislocated worker program in place. **REP. LINDEEN** said yes, they were trying to utilize existing programs and infrastructure without creating new ones. There are not enough dollars and resources to retrain and get these folks back to work. Administrative costs can be reviewed.

**REP. TROPILA** said it was mentioned that 83% of employers have nine employees or less. That means that 17% have 10 employees or more. Who has the bigger bulk of employees? **Mike Foster** deferred to **Bob Lafferty, Department of Labor and Industry** who said the larger firms hire the most employees.

**CHAIRMAN VICK** asked what he would get with this program if he was a carpenter in Bozeman who just lost his job. **SEN. ELLINGSON** said the first step is going to the local workforce investment board or the entities they have chosen for the development of an individual employment plan. What you get following that plan depends upon your individual needs, what your skills are, and what skills are needed to make you employable again. It can range from going to Vo Tech to the University of Montana or one

of the other universities. They could also provide assistance for tuition and other short term cash needs.

**Closing by Sponsor:**

**SEN. ELLINGSON** said the problems facing the state are not Republican or Democratic problems, they are human problems. He said he was disappointed to learn that the DOL was coming forward in opposition, but we still have a lot of work we can do with them to address their concerns. We should leave this legislative session with solutions, not excuses. Lets work together and find solutions that help Montana workers, employers and the economic development of the state. This is a great vehicle for those solutions.

**REP. LINDEEN** said the DOL is responsible for protecting the unemployment insurance trust fund. This bill could have a good impact on that fund. Unemployment costs to the trust fund are derived from three factors. The average weekly benefit amount an unemployed worker can receive, the average number of weeks of benefits an unemployed claimant needs to draw before finding a job, and the total number of unemployed workers drawing benefits in a 12 month period. This needs to be considered. When there are effective training programs available for unemployed workers, the number of weeks of benefits those workers draw decreases. A decline of just a few weeks of unemployment benefits can amount to millions of dollars saved state wide. It is the job of state employees in the unemployment division to advise us of the status of the trust fund, but it is up to the legislature to balance those views with the impacts of industry shut downs in our communities. Use your own judgement to calculate the long term value, it is a tax neutral bill. She said she is an employer and a member of NFIB and had paid that tax. She would not be carrying the bill if she did not think it was a good bill. This bill will stimulate economic development in Montana by helping businesses become more competitive and by training workers for new jobs.

**ADJOURNMENT**

Adjournment: 12:00 P.M.

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REP. STEVE VICK, Chairman

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LINDA KEIM, Transcription Secretary

SV/PB/LK Transcribed by Linda Keim

**EXHIBIT** (aph63aad)